

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CALIFORNIA CASUALTY INDEMNITY
EXCHANGE, a foreign corporation,

Plaintiff,

vs.

AMERICAN FAMILY MUTUAL
INSURANCE COMPANY, a foreign
entity; and AMERICAN FAMILY
INSURANCE GROUP, a foreign entity,

Defendants.

CASE NO.: 2:12:CV-00441-JCM-NJK

SUMMARY JUDGMENT

Plaintiff, California Casualty Indemnity Exchange, and Defendants, American Family Mutual Insurance Company and American Family Insurance Group having filed cross-motions for Summary Judgment, and the court having fully considered the matter, and it appearing to the court that there are no material questions of fact remaining, and that the matter is one of interpretation of competing "other insurance" clauses which may be decided as a matter of law, and that the Nevada Supreme Court in its decision in *Travelers Ins. Co, v. Lopez*, 93 Nev. 463, 567 P.2d 471 (Nev. 1977) has adopted the *Lamb Weston* rule from Oregon to govern such cases, and that the "other insurance" clauses in both policies do conflict with each other such that each insurer is obligated to pro-rate the share of the \$100,000.00 settlement to claimant Mendoza; and that Defendants are therefor liable to Plaintiff for the sum of \$50,000.00, one half of the settlement previously paid by Plaintiff to Mendoza;

And it further appearing to the court that Plaintiff is also the prevailing party, by operation of law, and pursuant to NRCP 54(d), entitling it to recoverable costs and

1 prejudgment interest pursuant to NRS 17.130 at the rate of 5.25 % from the date of
2 service of the Complaint, February 28, 2012;

3 NOW, THEREFOR, IT IS HEREBY ORDERED,

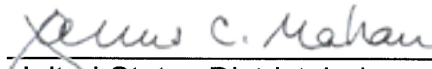
4 Plaintiff shall have judgment against the Defendants in the sum of \$50,000.00;

5 and;

6 Plaintiff is awarded pre-judgment interest in the sum of \$ 3,086.41; and

7 Plaintiff is awarded its costs of suit in the sum of \$ 413.00
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10 Dated June 13, 2013.

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12 
13 United States District Judge

14 Submitted by

15 **PATTON & KIRALY, P.C.**

16
17 By: 

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